

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**CHRISTIAN RANDOLPH,**

**Plaintiff**

**v.**

**MARTIN J. CIRKIEL and CIRKIEL AND  
ASSOCIATES,**

**Defendants**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**No. A-11-CA-406-SS**

**SCHEDULING ORDER**

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following scheduling order.

1. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed by September 2, 2011.

2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by September 9, 2011, and each opposing party shall respond, in writing, by September 16, 2011. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.

3. Each party shall complete and file the attached "Notice Concerning Reference to United States Magistrate Judge" on or before September 2, 2011.

4. The parties shall file all amended or supplemental pleadings and shall join additional parties by October 28, 2011.

5. Any party asserting claims for affirmative relief shall disclose its designation of potential witnesses, testifying experts, and proposed exhibits by serving, not filing, the designation on all parties by October 21, 2011. Any party resisting claims for relief shall disclose its potential witnesses, testifying experts, and proposed exhibits, and shall serve, not file, the disclosure on all parties by November 18, 2011. All designations of rebuttal experts shall be filed within 15 days of receipt of the report of the opposing expert.

Any witness who will present any opinion in trial is considered an expert, and the disclosure must contain a written summary of the witness's testimony in an expert report. The Fed. R. Civ. P. 26 standard is not applicable to this paragraph; it does not make any difference whether or not the expert witness is a "retained expert," as any opinion or testimony of any expert not contained in the expert report will not be permitted at trial.

6. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within **eleven (11) days** of receipt of the written report of the expert's proposed testimony or within **eleven (11) days** of the expert's deposition, if a deposition is taken, whichever is later.

7. The parties shall complete all discovery on or before January 31, 2012. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

8. All dispositive motions shall be filed no later than February 15, 2012, and shall be limited to ten (10) pages. Responses shall be filed within eleven (11) days of the service of the motion and shall be limited to ten (10) pages. Any replies shall be filed within eleven (11) days

of the service of the response and shall be limited to five (5) pages, but the Court need not wait for the reply before ruling on the motion.

9. This case is set for docket call April 27, 2012, at 11:00 a.m. and trial in the month of May, 2012. At docket call, the parties shall submit a short, one paragraph statement of the parties' contentions, voir dire questions, proposed jury instructions and verdict forms, exhibit and witness lists, and any motions in limine.

SIGNED this the \_\_\_\_ day of \_\_\_\_\_.

---

UNITED STATES DISTRICT JUDGE

AGREED:

/s/ Donald T. Cheatham

**ATTORNEY FOR PLAINTIFF**

/s/ Michael B. Johnson

**ATTORNEY FOR DEFENDANTS**